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**CITY OF HOMER
ORDINANCE 15-xx**

Planning Commission

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING
HOMER CITY CODE 21.03.040, DEFINITIONS USED IN ZONING
CODE, HOMER CITY CODE 21.05.030, MEASURING HEIGHTS,
REPEALING HOMER CITY CODE CHAPTER 21.58, SMALL WIND
ENERGY SYSTEMS, AND ENACTING HOMER CITY CODE
CHAPTER 21.58, TOWERS AND RELATED STRUCTURES.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 21.03.040, Definitions used in zoning code, is amended by adding the following definitions:

“Collocation” means the placement or installation of wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

“Equipment compound” means the area occupied by a wireless communications support structure and within which wireless communications equipment is located.

“Tower, amateur radio” means a fixed vertical structure used exclusively to support an antenna used by an amateur radio operator licensed by the Federal Communications Commission, plus its accompanying base plates, anchors, guy cables and hardware.

“Tower, communications” means a fixed vertical structure built for the primary purpose of supporting wireless communications equipment, plus its accompanying base plates, anchors, guy cables and hardware.

“Wireless communications equipment” means the set of equipment and network components used in the provision of wireless communications services, including without limitation antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding any wireless communications support structure.

“Wireless communications support structure” means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a communications tower, utility pole, or building.

Section 2. Subsection (b) of HCC 21.05.030 is amended to read as follows:

[Bold and underlined added. Deleted language stricken through.]

b. When measuring height of a building, the following are excluded from the measurement:

1. Steeples steeples, spires, belfries, cupolas and domes if not used for human occupancy, chimneys, ventilators, weather vanes, skylights, water tanks, bulkheads, monuments, flagpoles, wind energy systems, television and radio antennas **(other than antennas that are wireless communications equipment)**, other similar features, and necessary mechanical appurtenances usually carried above roof level.

2. Wireless communications equipment that does not extend more than 10 feet above the height of the building.

Section 3. Homer City Code Chapter 21.58, Small Wind Energy Systems, is repealed.

Section 4. Homer City Code Chapter 21.58, Towers and Related Structures, is enacted to read as follows:

CHAPTER 21.58

TOWERS AND RELATED STRUCTURES

Article I. Communications Towers and Wireless Communications Equipment

21.58.010 Purpose and Application; Exceptions.

a. The purpose of this article is to provide standards and procedures for communications towers, except for those communications towers that are exempt from the provisions of this article under b of this section, and for wireless communications equipment.

b. The following communications towers are exempt from the provisions of this article:

1. A communications tower that is placed temporarily to support wireless communications equipment that is provided in response to a state of emergency declared by a federal, state, or local government authority, and that is removed within 12 months after the termination of the state of emergency.

2. A communications tower that is placed temporarily to support wireless communications equipment that is provided for media coverage of a special event, and that is placed no more than 15 days before the special event and removed no more than 15 days after the end of the special event.

3. An amateur radio tower, to the extent that it is exempt from regulation under AS 29.35.141.

21.58.020 Wireless communications equipment—exemption from regulation. The collocation, removal, replacement or installation of wireless communications equipment is a permitted principal or accessory use or structure and is not subject to approval under this title if it meets all of the following requirements:

a. The collocation, removal or replacement is in an existing wireless communications support structure or existing equipment compound that is in compliance with the requirements

of this title and any previous final approval of the wireless communications support structure or equipment compound under this title.

b. The collocation, removal or replacement will not do any of the following:

1. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

2. Increase the width of the wireless communications support structure by more than the minimum necessary to permit the collocation, removal or replacement.

3. Increase the area of the existing equipment compound to greater than 2,500 square feet.

c. The collocation, removal or replacement complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound under this title.

d. The installation is on an existing building that is in compliance with the requirements of this title and any previous final approval of the building under this title, and the wireless communications equipment does not extend more than 10 feet above the height of the building.

21.58.030 Permission for Communications Towers.

a. Except as provided in b of this section, a communications tower is permitted as a principal or accessory use or structure in each zoning district.

b. A communications tower that exceeds the following maximum height for the zoning district in which the tower is located is permitted only when authorized by conditional use permit issued in accordance with Chapter 21.71.

<u>District</u>	<u>Maximum Height (feet)</u>
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CBD	60
TC	60
GBD	60
GC1 (Beluga Lake)	120
RO	85
UR	60
RR	85
CONS	60
GC2	120
EEMU	120
MI	120
MC	120
OSR	60
BCWPD	120

21.58.040 Application Requirements. An application for a zoning permit or conditional use permit for a communications tower shall include the following information, in addition to information required by other provisions of this title:

a. A level two site plan that shows the location of the communications tower.

b. A written narrative explaining the necessity of the communications tower to the applicant's wireless communications coverage, a description of alternate sites for the communications tower and why the proposed site is the best alternative, a demonstration that the height of the communications tower is the minimum required for the effective operation of the wireless communications equipment that it supports, and a description of the communications tower's capacity to accommodate collocations.

c. A map showing the locations of the applicant's existing communications towers that serve customers in the city and of all communications towers that the applicant proposes to construct to serve customers in the city.

d. A description of the wireless communications equipment that the communications tower will support, and accessory structures such as equipment cabinets and generators.

e. An analysis of the potential visual impacts of the communications tower on property in its vicinity, through the use of photo simulations of the communications tower and the wireless communications equipment that it will support, from relevant vantage points designated by the Planning Department;

f. A certificate from an engineer licensed in Alaska that the communications tower, and all antennas and other wireless communications equipment located on it, meet industry standards for their construction, including without limitation the ability to withstand anticipated wind loads, and will contain only wireless communications equipment meeting applicable Federal Communications Commission requirements.

g. Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.

h. For a conditional use permit, minutes of each public meeting held under Section 21.58.060(a), and copies of all public comments received under Section 21.58.060(b)(1).

21.58.050 Communications tower standards.

a. The distance from a communications tower to the closest property line may not be less than 1.1 times its total height.

b. All guy wires, cables and other accessory support structures for a communications tower shall be on the same lot as the tower, but may be located within required setback areas, and shall be properly jacketed to ensure visibility in accordance with applicable safety standards.

c. The equipment compound for a communications tower shall conform to the minimum setback requirements of the zoning district in which it is located.

d. Not less than two off-street parking spaces conforming to the requirements of this title shall be provided on the lot where a communications tower is located for use in the operation and maintenance of the communications tower and the wireless communications equipment that it supports.

e. The base of a communications tower shall be surrounded by a fence or wall not less than six feet in height with a secured gate. The lowest part of a climbing apparatus that provides access to equipment on a communications tower shall be at least 12 feet above the ground, and the tower shall have no handholds or footholds below the climbing apparatus.

f. Except for switch type lighting, no artificial lighting shall be mounted on a communications tower, and a communications tower shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration.

g. Signs. No sign, flag or pennant may be attached to a communications tower except that the following shall be posted in a location that is visible from outside the equipment compound:

1. A sign identifying the party responsible for the operation and maintenance of the communications tower, with a 24-hour emergency contact telephone number.

2. Any antenna structure registration number required by the Federal Communications Commission.

3. Warnings of dangers associated with the communications tower or equipment that is located on the communications tower.

h. No person may operate a communications tower, or equipment on a communications tower, that the City Engineer has found to be unsafe or not in compliance with applicable law until the unsafe condition or noncompliance has been corrected. If corrective action is not taken within six months after notice of the City Engineer's finding, the unsafe communications tower or equipment shall be removed.

i. The City may abate as a nuisance under HCC 21.90.070 a communications tower supporting only wireless communications equipment that is not operational for a period of at least 12 consecutive months.

21.58.060 Public notification of communications tower application.

a. The applicant for a conditional use permit for a communications tower shall hold at least one meeting informing the public of the application that conforms to the following requirements.

1. The meeting shall be held at city hall, or at a public facility that is nearer to the location of the proposed communications tower and capable of seating a minimum of 20 people.

2. The meeting shall be held on a day that is not a city holiday at least 15 days before the applicant submits its application to the city.

3. The meeting shall be scheduled to last a minimum of two hours and shall not start before 5:00 p.m. or after 7:00 p.m.

b. The applicant shall notify each record owner of property within 1200 feet of the parcel that is the site of the proposed communications tower by first class mail at least 15 days before the meeting of the following:

1. The legal description and a map of the vicinity of the parcel that is the site of the proposed communications tower;

2. A description of the proposed communications tower, including its height, design, and lighting, the proposed access to the site and the services proposed to be provided by the tower;

3. The date, time, and location of the meeting;

4. A contact name, telephone number, and address of the applicant; and

5. A form on which to submit written comments, with a comment submittal deadline and instructions.

21.58.070 Action on communications tower application.

a. The reviewing authority shall apply the following criteria in acting upon a communications tower application:

1. The tower must conform to the requirements in Section 21.58.050, and the other applicable standards in this title.

2. In addition to conforming to any applicable height limitation in this article, the height of the communications tower is not greater than the minimum height required for the effective operation of the wireless communications equipment that it supports.

3. The communications tower is designed, constructed and surfaced in a manner that minimizes its visibility beyond the lot on which it is located.

4. The coverage for the applicant's wireless communications customers that the communications tower will provide cannot be provided by collocation on an existing wireless communications support structure.

5. Of the available alternate sites, the selected site provides necessary coverage for the applicant's wireless communications customers with the least visual impact on other properties.

b. No action on a communications tower application may be taken on the basis of the environmental effects of radio frequency emissions to the extent that the wireless communications equipment that is the subject of the application complies with the Federal Communications Commission's regulations concerning such emissions.

c. The reviewing authority shall act on a communications tower application within a reasonable period of time after a complete application has been filed with the city taking into account the nature and scope of the application request, but within no more than 150 days after the application is complete.

d. An action denying a communications tower application shall be in writing and supported by substantial evidence contained in a written record.

Article II. Small Wind Energy Systems

21.58.110 Purpose and application. The purpose of this article is to establish minimum health and safety standards for small wind energy systems. It applies to small wind energy systems in all districts where they are allowed as permitted or conditional uses.

21.58.120 Installation requirements.

a. The wind turbine of a small wind energy system may be mounted on a building or a wind energy system tower.

b. The surfaces of all small wind energy system components that are visible when the small wind energy system is in operation shall be painted a nonreflective, neutral color.

c. A zoning permit application for a small wind energy system shall include the following information:

1. A level one site plan that shows the location of the small wind energy system.
2. Specifications for the small wind energy system including manufacturer make and model, an illustration or picture of the turbine unit, maximum rated power output, blade diameter, total height, tower color and, if proposed, the location of ladders and/or climbing pegs.
3. Tower foundation blueprints or drawings.
4. Noise decibel data prepared by the wind turbine manufacturer or qualified engineer indicating noise decibel level at the property line nearest to the location of the small wind energy system.
5. Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.
6. Evidence that the small wind energy system complies with current Underwriters Laboratories standards for local utility connections.

d. Dimensional Requirements.

1. A small wind energy system may be installed only on a lot having an area not less than one acre.
2. The distance from a small wind energy system to the closest property line may not be less than 1.1 times its total height.
3. All guy wires, cables and other accessory support structures for a small wind energy system must be on the same lot as the small wind energy system, but may be located within required setback areas, and shall be properly jacketed to ensure visible safety standards.

21.58.130 Operation standards.

a. Electrical Standards.

1. A small wind energy system shall comply with the National Electric Code.
2. All electric transmission wires connected to a small wind energy system must be underground, or within the building on which the small wind energy system is mounted.
3. A small wind energy system shall not interfere with television, microwave, navigational or radio reception.

b. Noise and vibration from a small wind energy system shall not exceed the levels permitted in HCC 21.59.010(b) and (c), except during short-term events such as utility outages and severe wind storms.

c. Tower Safety.

1. The lowest part of a climbing apparatus that provides access to a wind turbine shall be at least 12 feet above the ground, and the wind energy system tower or building on which the wind turbine is mounted shall have no handholds or footholds below the climbing apparatus.
2. The lowest point through which a wind turbine blade rotates must be at least 20 feet above the ground.

d. Lighting. Except for switch type lighting, no artificial lighting shall be mounted on a small wind energy system, and a small wind energy system shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration and approved by conditional use permit.

e. Signs. No sign, flag or pennant may be attached to a small wind energy system except for the following:

1. A sign identifying the manufacturer or installer of the small wind energy system.

2. Signs warning of dangers associated with the small wind energy system.

f. No person may operate a small wind energy system that the City Engineer has found to be unsafe or not in compliance with applicable law until the unsafe condition or noncompliance has been corrected. If corrective action is not taken within six months after notice of the City Engineer's finding, the small wind energy system shall be removed.

g. The City may abate as a nuisance under HCC 21.90.070 a small wind energy system that is not operational for a period of at least 12 consecutive months.

Section 5. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of _____ 2015.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

343 Second Reading:

344 Effective Date:

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347 Reviewed and approved as to form:

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351 _____
Katie Koester, City Manager

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353 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____